

The Washington Post

AN INDEPENDENT NEWSPAPER

SUNDAY MAY 23 B6 *Campaign Finance Correction*

THE U.S. COURT of Appeals for the D.C. Circuit has reinstated five criminal charges against Democratic fund-raiser Maria Hsia. The charges had earlier been thrown out by U.S. District Judge Paul Friedman on grounds that the Justice Department's campaign finance task force had used an "Alice-in-Wonderland-like maze of logical leaps and tangled inferences" to state a case against Ms. Hsia. Ms. Hsia, according to prosecutors, allegedly caused false statements to be made to the Federal Election Commission by soliciting campaign contributions from the Hsi Lai Buddhists funneled through the temple's monastics. The appeals court has held, in effect, that the inferences were reasonable. The decision, if arcane, is a welcome clarification of federal authority—even under our Swiss-cheese campaign finance laws—to prosecute criminal efforts to defraud the election system.

The root of the problem in the Hsia case was that the legal prohibition against so-called conduit contributions is only a misdemeanor violation. The department sought to get around this, as it has in other cases, by using a felony statute that generally forbids making false statements to regulators and arguing that by arranging contributions to be made through straw donors, Ms. Hsia caused false statements to be made. Judge Friedman re-

garded this as too attenuated to support an indictment, a ruling that—had it been upheld—would have made the already weak criminal enforcement provisions of campaign finance law entirely laughable.

The D.C. Circuit, however, reversed this. In a decision that crossed the ideological spectrum of the court, a three-judge panel held that the general scheme of the indictment was neither particularly novel nor particularly attenuated. "The simple interposition of conduits to sign the checks is certainly enough to 'cause' a committee to make false statements in its report" to the FEC, wrote Judge Stephen Williams. "The indictment and bill of particulars straightforwardly lay out the government's account of Hsia's affirmative steps toward that result."

While the decision is a good development, the fact that this matter can be the subject of serious legal dispute at all is evidence that the law needs to be strengthened. Prosecutors are in a dreadful bind when—even as they receive enormous political pressure to bring cases—they face legal hurdles in filing what should be fairly straightforward charges. While the D.C. Circuit has held that the false statements statute can be applied in the campaign finance context, it was not designed for that purpose. It is well past time for a law that directly addresses conduit contributions as a felony offense.